

	Presented on	:	16/11/2018
	Registered on	:	16/11/2018
	Decided on	:	30/07/2026
	Duration	:	Ys Ms Ds 07 08 14
	CNR No. MHSN010041092018		

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, SANGLI,
AT SANGLI.

(Presided Over by S. B. Desai)

Criminal Revision Application No. 147/2018

Exh. No. 9

1. Shri. Gulab Vithoba Kalgonde,
Age : 30 Yrs., Occu. Agriculturist,
R/o Lakadewadi, Tal. Jath, Dist.
Sangli.

Revision Applicants/
(Ori. Accused nos.
1 to 4 and 6)

2. Shri. Gopinath Maruti Chavan,
Age : 35 Yrs., Occu. Agriculturist,
R/o Lakadewadi, Tal. Jath,
Dist. Sangli.
3. Shri. Ashok Prakash Aiwale,
Age : 26 Yrs., Occu. Service,
R/o Lakadewadi, Tal. Jath,
Dist. Sangli.
4. Shri. Mahadev Rauba Bandgar,
Age : 32 Yrs., Occu. Agriculturist,
R/o Lakadewadi, Tal. Jath,
Dist. Sangli.
5. Shri. Vitthal Malhari Mane,
Age : 62 Yrs., Occu. Agriculturist,
R/o Lakadewadi, Tal. Jath,
Dist. Sangli.

VERSUS

State of Maharashtra

Respondent

Shri. M.M. Kale, learned Advocate for the revision applicants.
Shri. P. A. Bhokare, learned D.G.P for the State/respondent.

J U D G M E N T

(Delivered on 30/07/2026)

The present criminal revision application is under Section 397 read with Section 399 of the Code of Criminal Procedure, 1973 (Cr.P.C.) has been filed by the revision applicants (Original accused No. 1 to 4 and 6) challenging the impugned order dated 23.07.2018 passed below Exh. 1 in Criminal Misc. Application No. 363/2016 by the learned Judicial Magistrate First Class (J.M.F.C.), Jath, directing an investigation under Section 156(3) of Cr.P.C. and registration of F.I.R. against the applicants and others for offenses punishable under Sections 419, 420, 464, 465, 463, 466, 467, 468, 470, 167 read with Section 34 of the Indian Penal Code (I.P.C.).

2. In brief facts of the case are as under :-

Sambhaji Pandurang Kalgonde filed complaint before the learned J.M.F.C., Jath, alleging that land bearing Gat No. 25/2 admeasuring 1 H. 68 R. situated at Village Lakadewadi, Tal. Jath belonged to his late aunt, Dwarkabai Kondiba Kalagonde, who died unmarried on 01.01.2008. Further, it is alleged that after her death, accused No. 1 (Gulab Vithoba Kalagonde), with malafide intent to grab the property, set up an

unknown dummy woman pretending to be Dwarkabai at Village Kolgiri. With the assistance of other accused, including government officers (Talathi, Circle Officer, Sub-Registrar, Stamp Vendors) a forged domicile/residence certificate was obtained and a bogus Sale Deed No. 390/2011 dated 31.01.2011 was executed long after the real Dwarkabai's demise. The learned J.M.F.C., Jath, vide impugned order dated 23.07.2018, observed that the allegations are serious, cognizable, and non-bailable, requiring investigation to uncover the truth regarding the impersonation and execution of the bogus sale deed. Thus, the Magistrate ordered the matter to be sent to Umadi Police Station under Section 156(3) Cr.P.C. for registration of F.I.R. and investigation.

3. Revision applicants/accused contended that the impugned order was passed mechanically without independent application of judicial mind. The Complainant failed to demonstrate strict compliance with Section 154(1) and Section 154(3) Cr.P.C. prior to filing the application under Section 156(3) Cr.P.C. The dispute is purely of a civil nature pertaining to title and partition of agricultural land, which is being given a criminal color. Hence, this order be set-aside. Adv. Shri. M.N.Kale for the revision applicant submitted the grounds mentioned in the application.

4. On behalf of State D.G.P Shri. P. A. Bhokare appeared and strongly objected submitting that the complaint discloses a deep-rooted fraud, forgery, and impersonation of a deceased person to usurp valuable land, which requires police machinery

to investigate. The order under Section 156(3) Cr.P.C. is a pre-cognizance direction. The accused have no right of hearing at the stage of ordering an investigation. In such circumstances, application be rejected.

5. Upon hearing submissions following points arises for determination. The points and findings thereon for reasons stated there under are as follows :-

<u>POINTS</u>	<u>FINDINGS</u>
1. Whether the revision Application filed by the prospective accused against an order directing investigation under Section 156(3) Cr.P.C. is maintainable?	... No.
2. Whether the learned Magistrate committed any legal error in passing the impugned order dated 23.07.2018 under Section 156(3) Cr.P.C.?	... No.
3. What order ?	...As per final order.

REASONS

Point No.1 and 2 :-

6. Upon hearing rival submissions, perused record. It appears that the complaint sets out specific averments that Dwarkabai died on 01.01.2008, whereas the Sale Deed No. 390/2011 was executed on 31.01.2011 by impersonating her through a dummy person from Kolgiri. Execution of a document by an impersonator in the name of a dead person

prima-facie satisfies the ingredients of forgery (Section 463/464 IPC), cheating by personation (Section 419 IPC), and using forged documents as genuine (Section 471 IPC). In **Madhubala v. Suresh Kumar [(1997) 8 SCC 476]**, the Hon'ble Supreme Court held that whenever a Magistrate orders an investigation under Section 156(3) Cr.P.C. upon receiving a complaint disclosing cognizable offenses, the police are bound to register a formal F.I.R. and conduct a full-fledged investigation. Collection of handwriting samples, verification of death records, and identification of the dummy woman are matters that require custodial or field investigation by police machinery, which cannot be conveniently conducted in a private complaint trial under Section 200 of Cr.P.C. without prior police probe.

7. Also, issue is whether an accused can challenge an order passed under Section 156(3) Cr.P.C. in revision. The Hon'ble Supreme Court in **Father Thomas v. State of U.P (2011 Cri.L.J. 2278)** and the Hon'ble High Court of Judicature at Bombay in various decisions (including *Avinash v. State of Maharashtra*) have consistently held that an order under Section 156(3) of Cr.P.C. passed at the pre-cognizance stage is purely administrative or interlocutory in nature to initiate investigation. Prior to the issuance of process or taking cognizance under Section 190 of Cr.P.C., a prospective accused has no locus standi to participate in the proceedings or oppose an investigation into a cognizable offense. Furthermore, the Full Bench of the Bombay High Court in *State of Maharashtra v. Shashikant S. Patil* (and subsequent larger bench rulings)

observed that once an F.I.R. is registered pursuant to a Section 156(3) order, the revisional court cannot quash the F.I.R. under Section 397 Cr.P.C., the appropriate remedy for quashing an F.I.R. lies under Section 482 Cr.P.C./Article 226 of the Constitution before the Hon'ble High Court. In view of above, it appears that the revision by the proposed accused challenging an order under Section 156(3) Cr.P.C. is not maintainable. Also, perusal of the record discloses that the applicant filed an affidavit at Exh. 5 and explicitly stated approaching the Jath Police Station vide written complaint dated 20.03.2015, but no action was taken.

8. In view of above facts and circumstances, it appears that the learned J.M.F.C., Jath, has applied judicial mind, recorded sufficient reasons, and rightly exercised jurisdiction under Section 156(3) Cr.P.C. There is no illegality, procedural impropriety, or perverse finding in the impugned order dated 23.07.2018. Hence point No.1 and 2 are answered in negative.

ORDER

Criminal Revision Application No. 147/2018 stands dismissed.

Date : 30/07/2026

(S.B.Desai)
Additional Sessions Judge,
Sangli.